IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

MFA.No. 978 of 2001(D)

OPMV.266/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA

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APPELLANT/PETITIONER:

SR.GORDIAN F.C.C. @ROSILY K.C., AGED 58, D/O.K.T.CHERU, KAKKASSERY HOUSE, MATTOM DESOM, ALOOR VILLAGE & POST, MUKUNDAPURAM

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS/RESPONDENTS:

(*)1. DEVASSYK.V., KATHIYADAN HOUSE, MUTTATHARAYIL, KURUPPAMPADY, RAYAMANGALAM VILLAGE, ERNAKULAM.(DELETED)

2. ORIENTAL INSURANCE CO. LTD. ANGAMALY.

(*)3. B.JAYAKUMAR, KAIPITTIL HOUSE, MANIKKAMANGALAM, ERNAKULAM (DELETED)

(*)4. DEVASSY, KALLARAKKAL HOUSE, MANIKKAMANGALAM, ERNAKULAM (DELETED)

5. NATIONAL INSURANCE CO. LTD., ERNAKULAM.

6. DIRECTOR, ST. ANTONY'S MISSION HOSPITAL, PAZHUVIL, THRISSUR.

(*)7. JOSE @ OUSEPH, S/O.LONAPPAN, PALAKKAL HOUSE, MULAMKUNNATHKAVU P.O. (DELETED)

8. NATIONAL INSURANCE CO. LTD., THRISSUR.

(*)RESPONDENTS 1, 3, 4 AND 7 ARE DELETED FROM THE PARTY ARRAY AT THEir RISK OF THE APPELLANT VIDE ORDER DATED 26.11.2007 ON IA NO.2748/2007.

R8 BY ADV. SRI.P.JAYASANKAR
R2 BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 5/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.F.A.No.978 of 2001

Dated, this the 5th day of December, 2007

JUDGMENT

The petitioner in O.P.(MV) No.266/1993 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda is the appellant. Appellant sustained injuries in a motor vehicle accident. She filed Original Petition claiming compensation impleading the owners, drivers and insurers of three vehicles which were involved in the accident. Tribunal found that accident occurred due to the negligence of the first respondent. It also found that the appellant is entitled to get Rs.36,220/- as compensation. The petitioner herself has filed this appeal challenging the quantum of compensation.

2. The finding of the Tribunal that the accident occurred due to the negligence of the first respondent and the appellant/petitioner is entitled to get compensation and the insurer is liable to idemnify the insured have become final and conclusive. The only question arising for consideration is whether the appellant is entitled to get any additional compensation. The appellant was working as a tutor in lab technology and getting a monthly honorarium of Rs.1,650/-. To calculate the compensation due to permanent disability the Tribunal took her income as Rs.1,000/-. Though she produced a disability certificate which shows that she was having a disability of 8% the Tribunal fixed the same as 6%. Appellant has produced medical bills for claiming an amount

of Rs.14,755/-. Since she has not produced separate vouchers and bills the Tribunal awarded only Rs.10,000/-, for treatment expenses, by-standers expenses, transportation expenses, etc. According to me the Tribunal ought to have awarded at least Rs.13,000/- more towards disability, treatment expenses and other inconveniences suffered by the appellant.

In the result, appeal is allowed in part. An award is passed in favour of the appellant allowing her to recover an additional compensation of Rs.13,000/- with 6% interest per annum from the date of accident till the date of realisation. Second respondent insurer is directed to deposit the additional compensation also. On deposit the appellant can withdraw the entire amount.

K. PADMANABHAN NAIR,
JUDGE.

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K.PADMANABHAN NAIR, J.

M.F.A.No.978 of 2001

JUDGMENT

5th December, 2007.